

Bill No.: _____
Requested: _____
Committee: _____

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By: Senator McFadden (By Request – Baltimore City Administration)

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes – Possession of Loaded Handgun or Regulated Firearm – Enhanced**
3 **Penalties**

4 FOR the purpose of prohibiting a person from wearing, carrying, or transporting a
5 handgun loaded with ammunition on or about the person or in a vehicle under
6 certain circumstances; prohibiting a person from possessing a regulated firearm
7 loaded with ammunition under certain circumstances or if the person is under a
8 certain age; establishing certain penalties, including mandatory minimum
9 terms of imprisonment, for violations of this Act; prohibiting a court from
10 suspending any part of a sentence or ordering probation before judgment for
11 certain crimes; providing that certain persons are not eligible for parole during
12 certain mandatory minimum sentences, with a certain exception; providing that
13 each violation of certain prohibitions is a separate crime; and generally relating
14 to enhanced penalties for possession of a loaded handgun or regulated firearm.

15 BY repealing and reenacting, with amendments,
16 Article – Criminal Law
17 Section 4–203(a)(1) and (c)
18 Annotated Code of Maryland
19 (2002 Volume and 2010 Supplement)

20 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



Article – Public Safety
Section 5–133
Annotated Code of Maryland
(2003 Volume and 2010 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
MARYLAND, That the Laws of Maryland read as follows:

Article – Criminal Law

4–203.

(a) (1) Except as provided in subsection (b) of this section, a person may
not:

(i) wear, carry, or transport a handgun, whether concealed or
open, on or about the person;

(ii) wear, carry, or knowingly transport a handgun, whether
concealed or open, in a vehicle traveling on a road or parking lot generally used by the
public, highway, waterway, or airway of the State;

(iii) violate item (i) or (ii) of this paragraph while on public
school property in the State; [or]

(iv) violate item (i) or (ii) of this paragraph with the deliberate
purpose of injuring or killing another person; OR

**(V) VIOLATE ITEM (I) OR (II) OF THIS PARAGRAPH WITH A
HANDGUN LOADED WITH AMMUNITION.**

(c) (1) **(I) [A] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF
THIS PARAGRAPH, A person who violates this section is guilty of a misdemeanor and
on conviction is subject to the penalties provided in this subsection.**

**(II) 1. A PERSON WHO VIOLATES SUBSECTION (A)(1)(V)
OF THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO**

1 IMPRISONMENT FOR NOT LESS THAN 18 MONTHS AND NOT EXCEEDING 10
2 YEARS.

3 2. A COURT MAY NOT SUSPEND ANY PART OF THE
4 MANDATORY MINIMUM SENTENCE OF 18 MONTHS.

5 3. EXCEPT AS OTHERWISE PROVIDED IN § 4-305 OF
6 THE CORRECTIONAL SERVICES ARTICLE, THE PERSON IS NOT ELIGIBLE FOR
7 PAROLE DURING THE MANDATORY MINIMUM SENTENCE.

8 4. A COURT MAY NOT ORDER PROBATION BEFORE
9 JUDGMENT IN A CASE ARISING UNDER THIS SUBPARAGRAPH.

10 5. EACH VIOLATION OF THIS SUBPARAGRAPH IS A
11 SEPARATE CRIME.

12 (2) If the person has not previously been convicted under this section,
13 § 4-204 of this subtitle, or § 4-101 or § 4-102 of this title:

14 (i) except as provided in item (ii) of this paragraph, the person
15 is subject to imprisonment for not less than 30 days and not exceeding 3 years or a fine
16 of not less than \$250 and not exceeding \$2,500 or both; or

17 (ii) if the person violates subsection (a)(1)(iii) of this section, the
18 person shall be sentenced to imprisonment for not less than 90 days.

19 (3) (i) If the person has previously been convicted once under this
20 section, § 4-204 of this subtitle, or § 4-101 or § 4-102 of this title:

21 1. except as provided in item 2 of this subparagraph, the
22 person is subject to imprisonment for not less than 1 year and not exceeding 10 years;
23 or

24 2. if the person violates subsection (a)(1)(iii) of this
25 section, the person is subject to imprisonment for not less than 3 years and not
26 exceeding 10 years.

(ii) The court may not impose less than the applicable minimum sentence provided under subparagraph (i) of this paragraph.

(4) (i) If the person has previously been convicted more than once under this section, § 4–204 of this subtitle, or § 4–101 or § 4–102 of this title, or of any combination of these crimes:

1. except as provided in item (2) of this subparagraph, the person is subject to imprisonment for not less than 3 years and not exceeding 10 years; or

2. A. if the person violates subsection (a)(1)(iii) of this section, the person is subject to imprisonment for not less than 5 years and not exceeding 10 years; or

B. if the person violates subsection (a)(1)(iv) of this section, the person is subject to imprisonment for not less than 5 years and not exceeding 10 years.

(ii) The court may not impose less than the applicable minimum sentence provided under subparagraph (i) of this paragraph.

Article – Public Safety

5–133.

(a) This section supersedes any restriction that a local jurisdiction in the State imposes on the possession by a private party of a regulated firearm, and the State preempts the right of any local jurisdiction to regulate the possession of a regulated firearm.

(b) A person may not possess a regulated firearm if the person:

(1) has been convicted of a disqualifying crime;

(2) has been convicted of a violation classified as a common law crime and received a term of imprisonment of more than 2 years;

1 (3) is a fugitive from justice;

2 (4) is a habitual drunkard;

3 (5) is addicted to a controlled dangerous substance or is a habitual
4 user;

5 (6) suffers from a mental disorder as defined in § 10–101(f)(2) of the
6 Health – General Article and has a history of violent behavior against the person or
7 another, unless the person has a physician’s certificate that the person is capable of
8 possessing a regulated firearm without undue danger to the person or to another;

9 (7) has been confined for more than 30 consecutive days to a facility as
10 defined in § 10–101 of the Health – General Article, unless the person has a
11 physician’s certificate that the person is capable of possessing a regulated firearm
12 without undue danger to the person or to another;

13 (8) except as provided in subsection (e) of this section, is a respondent
14 against whom a current non ex parte civil protective order has been entered under §
15 4–506 of the Family Law Article; or

16 (9) if under the age of 30 years at the time of possession, has been
17 adjudicated delinquent by a juvenile court for an act that would be a disqualifying
18 crime if committed by an adult.

19 (c) (1) A person may not possess a regulated firearm if the person was
20 previously convicted of:

21 (i) a crime of violence; or

22 (ii) a violation of § 5–602, § 5–603, § 5–604, § 5–605, § 5–606, §
23 5–607, § 5–608, § 5–609, § 5–612, § 5–613, or § 5–614 of the Criminal Law Article.

24 (2) A person who violates this subsection is guilty of a felony and on
25 conviction is subject to imprisonment for not less than 5 years, no part of which may
26 be suspended.

(3) A person sentenced under paragraph (1) of this subsection may not be eligible for parole.

(4) Each violation of this subsection is a separate crime.

(d) (1) Except as provided in paragraph (2) of this subsection, a person who is under the age of 21 years may not possess a regulated firearm or ammunition solely designed for a regulated firearm.

(2) Unless a person is otherwise prohibited from possessing a regulated firearm, this subsection does not apply to:

(i) the temporary transfer or possession of a regulated firearm or ammunition solely designed for a regulated firearm if the person is:

1. under the supervision of another who is at least 21 years old and who is not prohibited by State or federal law from possessing a firearm; and

2. acting with the permission of the parent or legal guardian of the transferee or person in possession;

(ii) the transfer by inheritance of title, and not of possession, of a regulated firearm;

(iii) a member of the armed forces of the United States or the National Guard while performing official duties;

(iv) the temporary transfer or possession of a regulated firearm or ammunition solely designed for a regulated firearm if the person is:

1. participating in marksmanship training of a recognized organization; and

2. under the supervision of a qualified instructor;

(v) a person who is required to possess a regulated firearm for employment and who holds a permit under Subtitle 3 of this title; or

1 (vi) the possession of a firearm or ammunition for self-defense
2 or the defense of others against a trespasser into the residence of the person in
3 possession or into a residence in which the person in possession is an invited guest.

4 (e) This section does not apply to a respondent transporting a regulated
5 firearm if the respondent is carrying a civil protective order requiring the surrender of
6 the regulated firearm and:

7 (1) the regulated firearm is unloaded;

8 (2) the respondent has notified the law enforcement unit, barracks, or
9 station that the regulated firearm is being transported in accordance with the civil
10 protective order; and

11 (3) the respondent transports the regulated firearm directly to the law
12 enforcement unit, barracks, or station.

13 **(F) (1) A PERSON MAY NOT VIOLATE SUBSECTION (B) OR (D) OF THIS**
14 **SECTION WITH A REGULATED FIREARM LOADED WITH AMMUNITION.**

15 **(2) A PERSON WHO VIOLATES PARAGRAPH (1) OF THIS**
16 **SUBSECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO**
17 **IMPRISONMENT FOR NOT LESS THAN 18 MONTHS AND NOT EXCEEDING 10**
18 **YEARS.**

19 **(3) A COURT MAY NOT SUSPEND ANY PART OF THE MANDATORY**
20 **MINIMUM SENTENCE OF 18 MONTHS.**

21 **(4) EXCEPT AS OTHERWISE PROVIDED IN § 4-305 OF THE**
22 **CORRECTIONAL SERVICES ARTICLE, THE PERSON IS NOT ELIGIBLE FOR**
23 **PAROLE DURING THE MANDATORY MINIMUM SENTENCE.**

24 **(5) A COURT MAY NOT ORDER PROBATION BEFORE JUDGMENT IN**
25 **A CASE ARISING UNDER THIS SUBSECTION.**

26 **(6) EACH VIOLATION OF THIS SUBSECTION IS A SEPARATE CRIME.**

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1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2011.